

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Protect Universal Service

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §1812-H is enacted to read:

§ 1812-H. Telecommunications service and information service

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Information service" has the same meaning as in 47 United States Code, Section 153.

B. "Telecommunications service" has the same meaning as in 47 United States Code, Section 153.

2. Provision of telecommunications service or information service. An instrumentality, institution or agency of the State may not provide telecommunications service or information service to any person other than itself or its tenants.

3. Procurement of telecommunications service or information service. An instrumentality, institution or agency of the State may not procure telecommunications service or information service in a manner that constrains or limits the consideration of proposals to provide service containing alternative technologies, services and network architecture that meets the needs of the institution or agency procuring the service. The instrumentality, institution or agency may not require that an alternative proposal contain provisions for connection to or utilization of a particular technology or a particular network or service of the agency or any other provider.

4. Remedies. In addition to any other remedy that exists at law or in equity, any person who is damaged or threatened with loss or injury by reason of a violation of this section may bring a civil action against the instrumentality, institution or agency of the State in the Superior Court in the county where the injured or threatened person resides to prevent, restrain or enjoin the violation or threatened violation of this section or seek damages. If the court finds that a violation or threatened violation of this section has occurred, the court may:

A. Enjoin, restrain or otherwise prohibit such action; and

B. Order payment of damages to the injured or threatened person equal to 3 times the amount of actual damages sustained by that person and the costs of the action, including reasonable attorney's fees.

5. Waiver of sovereign immunity. For the purposes of this section, the State waives its sovereign immunity.

Sec. 2. 35-A MRSA §2301-A, as enacted by PL 2007, c. 268, §1, is repealed.

Sec. 3. 35-A MRS §2501, sub-§2, as amended by PL 2007, c. 268, §2, is further amended to read:

2. Applicability of section 2503. Except as otherwise provided, a person may not construct facilities upon and along highways and public roads without applying for and obtaining a written location permit from the applicable licensing authority under section 2503. Included within this requirement is every person operating telephones or transmitting television signals by wire; every person that owns, controls, operates or manages any pipeline within or through this State for the transportation as a common carrier for hire of oil, gas, gasoline, petroleum or any other liquids or gases; every water utility and every person making, generating, selling, distributing and supplying gas or electricity; every water utility or sewer company, district or system privately or municipally owned; every municipally owned or operated fire alarm, police alarm or street lighting circuit or system; every cooperative organized under chapter 35; ~~the University of Maine System, for purposes described in section 2301-A;~~ and any other person engaged in telecommunications or the transmission of heat or electricity.

SUMMARY

This bill prohibits instrumentalities, institutions or agencies of the State from providing telecommunications service or information service to any person other than itself or its tenants. The bill also prohibits instrumentalities, institutions or agencies of the State from procuring such services in a manner that constrains or limits alternative proposals to meet instrumentalities', institutions' or agencies' needs. The bill establishes a right of action for injunctive relief and damages for violation of these requirements. The bill also repeals authority for the University of Maine to install lines on existing utility facilities within or along a right of way for the purpose of transmitting data and communications.